

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

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COURT OF APPEALS, DISTRICT OF COLUMBIA

OCTOBER TERM, 1924

No. 4228

158

UNITED STATES OF AMERICA, APPELLANT

vs.

AUGUST HECKSCHER

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF
COLUMBIA

FILED SEPTEMBER 24, 1924

COURT OF APPEALS OF THE DISTRICT OF
COLUMBIA

OCTOBER TERM 1924

No. 4228

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vs.
AUGUST HECKSCHER, APPELLEE

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF
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a Supreme Court of the District of Columbia

AUGUST HECKSCHER, COMPLAINANT

vs.

FRANK WHITE, TREASURER OF THE UNITED
States, and Thomas W. Miller, Alien Property
Custodian, defendants

} Equity No. 42335

UNITED STATES OF AMERICA,

District of Columbia, ss:

Be it remembered, that in the Supreme Court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Bill of complaint*

Filed March 12, 1924

In the Supreme Court of the District of Columbia

AUGUST HECKSCHER, COMPLAINANT,

vs.

FRANK WHITE, TREASURER OF THE UNITED
States,
and
THOMAS W. MILLER, ALIEN PROPERTY CUSTO-
dian, defendants

} Equity No. 42335

To the Supreme Court, of the District of Columbia:

August Heckscher, complainant herein, respectfully states to this honorable court as follows:

1. That he is a citizen of the United States, residing in the city of New York, and that he brings this suit under the provisions of section 9 of an act of Congress, approved October 6, 1917, as amended, and commonly known as the "trading with the enemy act."

2. That the defendants, Frank White and Thomas W. Miller are citizens of the United States, and are sued as Treasurer of the United States and Alien Property Custodian, respectively.

3. That the purpose of this suit is to establish a debt owing to complainant by the Imperial German Government, and by its successor government, the Republic of Germany, and to obtain from this honorable court an order directing the debt to be paid out of the money or other property formerly belonging to said Imperial German Government, which was delivered or paid to, and is now held by, the defendants.

2 4. That the complainant is a person not an enemy or an ally of an enemy within the meaning of section 9 of the trading with the enemy act, approved October 6, 1917, as amended.

5. That on October 6, 1917, the date of the approval of the said trading with the enemy act, the Imperial German Government was an enemy within the meaning of said act, and continued to be an enemy until it ceased to exist as a government.

6. That prior to October 6, 1917, the Imperial German Government owed to complainant the sum of twenty-five thousand dollars (\$25,000), evidenced by 6% Treasury notes of the par value of twenty-five thousand dollars (\$25,000), dated May 24, 1916, all of said notes payable on April 1, 1917, known as Series 26; that complainant purchased said notes for value long prior to the declaration of war between the United States and Germany, and prior to October 6, 1917, and that said notes, aggregating twenty-five thousand dollars (\$25,000), constitute a debt within the meaning of the provisions of section 9 of the trading with the enemy act, as amended; that on or about March 14, 1917, the payment and maturity of these notes was extended to April 1, 1918, and interest thereon paid in advance to said April 1, 1918; that thereafter, and on the 1st day of April, 1920, the amount of eight hundred and eight dollars and thirty-three cents (\$808.33) was paid to complainant out of funds which had been paid to the Alien Property Custodian as the property of the Imperial German Government, which said payment, being applied by complainant on account of past due interest, paid said interest up to and including the 11th day of October, 1918.

3 7. That since said last stated date, no interest has been paid, and the same is past due and in default, and has accrued and is accruing upon said indebtedness at the rate of six per cent (6%) per annum, and has become, and is becoming, a part of the principal of said indebtedness.

8. That the Alien Property Custodian now has in his possession, or to his credit in the Treasury of the United States, funds of the Imperial German Government, which were paid and delivered to him under the provisions of said trading with the enemy act, as amended, and which are available by law, sufficient to pay the entire indebtedness, both principal and past due interest, owing to complainant.

9. That the present German Government has recognized the debts of the Imperial German Government and has admitted the indebtedness claimed by August Heckscher, both principal and past due interest, said indebtedness being evidenced by said German treasury notes of the Imperial German Government, and the present German Government has consented in writing to the payment of the principal and interest of said debt out of available funds now in the possession of the Alien Property Custodian, or to his credit in the Treasury of the United States.

10. That complainant has duly filed under oath a notice of his said claim with the Alien Property Custodian, and in such form, and containing such particulars, as were required by said custodian for the allowance and payment of his debt out of funds in the possession of the Alien Property Custodian, or in the Treasury of the United States and available for such payment, and has duly made application to the President of the United States for the pay-
4 ment of said debt; that more than sixty (60) days have elapsed since the filing of said application, and there has been no order issued by the President of the United States directing the payment of said debt, or any part thereof, to complainant.

Wherefore, complainant presents this, his bill of complaint, and prays:

1. That the said Frank White, Treasurer of the United States, and the said Thomas W. Miller, Alien Property Custodian, may be made

parties defendant to this bill, and required to answer the same, but not under oath, answer under oath being hereby expressly waived;

2. That the right of the complainant to recover said sum of twenty-five thousand dollars (\$25,000), with interest at the rate of six per centum (6%) per annum, from the 11th day of October, 1918, may be established, determined, and adjudicated, and that the complainant may be awarded a decree against the said Frank White, Treasurer of the United States, and Thomas W. Miller, Alien Property Custodian, for the payment of said sum of twenty-five thousand dollars (\$25,000), and the interest thereon, as aforesaid;

3. That due process may be issued and complainant may be granted such other, further, and general relief in the premises as the nature of his case may require, or to equity may seem meet, and complainant will ever pray.

AUGUST HECKSCHER,
By M. CARTER HALL,
Attorney.

CARLIN, CARLIN & HALL,
1127 Munsey Building, Washington, D. C.
Attorneys for Complainant.

5 DISTRICT OF COLUMBIA, ss:

I, M. Carter Hall, a member of the firm of Carlin, Carlin & Hall, being first duly sworn, on oath, depose and say: That I have read the foregoing bill of complaint by me subscribed as attorney for August Heckscher, who is absent from the District of Columbia, and know the contents thereof; that the facts stated therein of my own personal knowledge are true; and those stated on information and belief, I believe to be true.

M. CARTER HALL.

Subscribed and sworn to before me this 12th day of March, 1924.
My commission expires January 5, 1925.

[SEAL.]

KATHERINE E. MERKLING,
Notary Public.

6 *Suggestion as to the rights of the United States*

Filed April, 1924

* * * * *

Now comes the United States of America by James M. Beck, Acting Attorney General of the United States, and respectfully suggests to this honorable court as follows:

(1) The United States of America is a body politic and is not an enemy, or ally of enemy, within the purview and meaning of the trading with the enemy act, the amendments thereto, and the proclamations and Executive orders issued thereunder.

(2) That the Imperial German Government was, and its successor is, an enemy within the purview and meaning of the said act and said proclamation and Executive orders issued thereunder.

(3) That on or about the 4th day of August, 1914, a state of war was declared between Germany on the one side and France, England, and their allies on the other.

7 (4) That after the outbreak of war referred to in paragraph numbered 3 the United States of America, in accordance with

certain acts of Congress, passed for that purpose, issued for valuable consideration certain policies of insurance upon certain vessels and their cargoes. The names of the said vessels, together with the policies covering the same and their cargoes, are contained in columns 1 and 2 of Exhibit A, which is attached hereto and made a part hereof.

(5) That after the outbreak of the war referred to in paragraph 3 the United States of America, in accordance with certain acts of Congress, passed for that purpose, issued for valuable consideration certain policies of insurance upon the lives of the crews of the said vessels. The names of the said persons upon whose lives the said insurance was issued, together with the policies covering the same, are contained in columns 1 and 2 of Exhibit B, which is attached hereto and made a part hereof.

(6) That during the time that said policies of insurance were in full force and effect certain of the said vessels and their cargoes were destroyed by armed vessels of the Imperial German Government.

(7) During the time the said policies of insurance upon the lives of the said persons were in full force and effect certain of the said persons were killed by the Imperial German Government at the same time the said vessels were destroyed.

(8) That by reason of the said destruction of the said vessels and their cargoes and the killing of the said persons the United States of America became liable to pay to the owners of the said
8 vessels and of the said cargoes and to the beneficiaries of the policies of insurance upon the lives of the said persons large sums of money, by virtue of the terms of the said policies of insurance, which sums of money the United States of America has long since paid. The sums of money paid under the said policies for the loss of the said vessels and their cargoes are set forth in column 3 of Exhibits A and B attached hereto opposite the name of the vessel and cargo and the person killed as aforesaid, for which the said money was paid.

(9) That upon the payment of the said sums of money the United States of America became entitled to recover from Germany the said sums of money disbursed under said policies, by reason of the destruction of the said vessels, cargoes, and lives by Germany.

(10) That by reason of the premises aforesaid a right has accrued and there is now due and owing to the United States of America from the successor of the Imperial German Government the sum of twenty-nine million, three hundred four thousand five hundred fifty-three dollars and thirty-nine cents (\$29,304,553.39), for all of which Germany has agreed to reimburse the United States of America.

(11) That the Imperial German Government or its successor has not paid said sum nor any part thereof and said entire sum now remains due and owing from it to the United States of America.

(12) That it is alleged in the bill of complaint filed by the plaintiff herein that there is now in the Treasury of the United States or in the possession of the Alien Property Custodian a large amount of money which the plaintiff alleges was at the time of the seizure thereof the property of the Imperial German Government. The said money
9 is now held in the Treasury of the United States. In the event that the plaintiffs herein should show that the money was at the time of the seizure thereof the money of the

Imperial German Government, the United States of America is entitled to assert the claim hereinbefore set forth against the said money now held in the Treasury of the United States, either prior to the claim of the plaintiff or upon a pro rata basis with the claim of the plaintiff.

(13) That the United States of America is entitled to receive payment of the said sum out of any money of the Imperial German Government and/or its successor or successors in the possession of the Treasurer of the United States.

(14) That of the aforesaid amount now due and owing to the United States from the Imperial German Government or its successor, sixteen million six hundred and twenty thousand four hundred and thirty-six dollars and five cents was due and owing prior to October 6, 1917, as will be shown by Exhibits C and D hereof, which are incorporated herein.

(15) That there has been filed on behalf of the United States of America with the Alien Property Custodian, a notice of claim under oath and in the form required by the Alien Property Custodian pursuant to the terms and provisions of the trading with the enemy act, the amendments thereto, and the proclamations and Executive orders issued thereunder.

(16) That the United States of America avers upon information and belief that there are now pending in the Supreme Court of the District of Columbia certain suits, in which Thomas W. Miller, as Alien Property Custodian, and Frank White, as Treasurer of the United States, are parties defendant and the following persons and corporations are plaintiffs:

10 American National Bank, of St. Paul.
 Equitable Trust Co., of New York.
Middleton S. Borland, trustee in bankruptcy.
August Heckscher.
Henry G. Hilken.
Mechanics Securities Corporation.
Securities Corporation General.
C. I. Stralem et al.
Abraham L. Garbat.
Anna Thalmann.
Republic Trading Company.
Jacob Kaufman.

And in all of the said suits the plaintiffs, alleged creditors of the Imperial German Government, seek to recover out of the money held by the Treasurer of the United States as aforesaid large sums of money alleged to be owing to them.

(17) That the United States of America avers upon information and belief that there are now pending in this honorable court five suits in which Thomas W. Miller, as Alien Property Custodian, and Frank White, as Treasurer of the United States, are parties defendant and the following persons and corporations are plaintiffs, also alleged creditors of the Imperial German Government:

Boatmen's Bank.
August A. Busch.
Billy Busch.
Mercantile Trust Co.
Northwestern Trust Co.

11 (18) That aggregate amount sought to be recovered in the suits enumerated in paragraphs 10 and 11 is far in excess of the amount of money now held by the Treasurer of the United States as aforesaid.

(19) That upon information and belief the money in the possession of the Treasurer of the United States as set forth in paragraph 12 constitutes the only available funds of the Imperial German Government or its successor, if such money ever belonged to the Imperial German Government, for the payment of the alleged indebtedness of the plaintiffs in the suits enumerated in paragraphs 10 and 11, and the indebtedness of the United States or of other creditors not now before this court, and that if the plaintiffs in the above-named suits are allowed to secure satisfaction of their claims out of the said funds to the exclusion of the United States the United States will suffer an irreparable injury and there will be an undue preference as between creditors of the Imperial German Government or its successor or successors.

(20) That the United States, as well as certain citizens of the United States, are creditors of the Imperial German Government in matters other than those above set out, and that by treaty the Imperial German Government and its successor have agreed with the United States to make certain payments and restitutions, and that by later agreement a commission to be known as a "Mixed Claims Commission" was established to determine the liability and to fix the amount of the awards due from the Imperial German Government to the United States and its citizens, and that no provision for payment was made by this agreement; that awards to the United States Government and to United States citizens have been made and are now being made; that this is the only
12 fund now available belonging to the Imperial German Government from which awards can be satisfied or an indebtedness be paid; that if judgments are secured in the present suits and decrees satisfied the fund held by the Treasurer of the United States would be exhausted and there would be nothing of which the United States and other creditors could secure their said claims; that such process would be an inequitable preference of creditors.

Wherefore the United States of America respectfully prays:

(1) That the bill of complaint be dismissed;

(2) That the indebtedness of the United States set forth herein be determined by this court as a valid and existing indebtedness, and that the Treasurer of the United States be ordered and directed to pay to the United States the amount thereof out of the funds as aforesaid or to the extent thereof;

(3) That this court find and determine that the United States is entitled to a priority over other claims or is at least entitled to share pro rata with other claimants in the distribution of the said fund;

(4) That this court take jurisdiction of the claims of the United States against the Imperial German Government, and in the event that the funds aforesaid are determined to have been the funds of the Imperial German Government prior to the seizure thereof that this court order the payment to the United States out of the said funds of the aforesaid claim;

(5) And for such additional and further relief as the exigencies of the case may require and as to this honorable court may seem meet.

THE UNITED STATES OF AMERICA.

HARLAN F. STONE,

Attorney General of the United States.

13 DISTRICT OF COLUMBIA, ss:

Frank T. Hines, being duly sworn, deposes and says: That he has read the foregoing suggestion of the United States; that he knows the facts therein alleged to be true except those states to be alleged upon information and belief and as to such facts he believes the same to be true.

FRANK T. HINES.

Subscribed and sworn to before me this 10th day of April, 1924.

[NOTARY SEAL].

JOHN D. CUTTER,

Notary Public, D. C.

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EXHIBIT A

Vessel	Policy No.	Amount of claim paid by U. S. A.	Vessel	Policy No.	Amount of claim paid by U. S. A.
A. A. Raven	9982-9992	\$2,881.82	D. N. Luckenbach (hull)	11133	\$531,011.72
	10103-10104		"	11238	25,000.00
	10140-10141		"	13145	9,000.00
	10172-10175		Dorothy B. Barrett (hull)	17941	585.18
	10181-10184		"	"	1,170.37
A. B. Sherman (hull)	10280		"	"	1,170.37
"	4660	15,859.21	"	"	1,170.37
"	4660	1,071.00	"	"	1,170.37
Alamance	13520	126.27	"	"	585.18
"	14181	6,499.06	"	"	585.18
"	14249	25.00	"	"	585.18
"	14250	30.00	"	"	585.18
Anna R. Heidritter (hull)	11850	3,592.23	"	"	1,170.37
A. Piatt Andrew	20391	100.00	"	"	585.18
"	"	100.00	"	"	585.18
"	"	100.00	"	"	1,170.37
"	"	100.00	"	"	585.18
"	20392	1,200.00	"	"	585.18
Argonaut (hull)	16227	516,500.00	"	"	585.12
"	15203	15,760.25	"	"	585.18
"	15277	13,813.75	"	"	585.13
"	15370	35,000.00	"	"	585.18
Borinquen (hull)	1817	3,806.07	"	"	585.18
C. A. Canfield (hull)	20122	15,898.63	"	"	6,437.03
"	"	250.00	"	"	5,266.65
Campana (hull)	6087	1,149,563.00	"	"	292.61
Carib	619-621	235,850.00	"	"	585.18
	627-628		"	"	585.18
	701-705		"	"	292.61
Chincha (hull)	15076	12,082.40	"	"	585.18
"	"	75.00	"	"	1,170.37
15 Christiane (hull)	6435	30,000.00	"	"	1,170.37
Cruiser (hull)	27052	3,000.00	"	"	585.18
Dirigo (hull)	2557	175,000.00	"	"	585.18
"	3806	70,000.00	"	"	585.18
"	3817	15,000.00	"	"	585.18
D. N. Luckenbach (hull)	10974	219,967.00	"	"	585.18
"	10462	22,100.00	"	"	1,170.37
"	10766	10.00	"	"	1,170.37
"	10889	110,800.00	"	"	585.18
"	10971	8,000.00	"	"	585.18
"	10985	15,427.77	"	"	585.18
"	11024	24,250.00	"	"	292.61
"	11025	46,100.00	"	"	585.18
"	11026	122,550.00	"	"	585.18
"	11130	47,100.00	"	"	585.18
					2,340.74

Vessel		Policy No.	Amount of claim paid by U. S. A.	Vessel		Policy No.	Amount of claim paid by U. S. A.
18	Dorothy B. Barrett (hull).	17941	\$1,170.37	21	Hilonian (hull)	3499	\$7,525.00
	"	"	585.18		"	3500	5,075.00
	"	"	1,170.37		"	3644	1,400.00
	"	"	292.61		"	3646	750.00
	"	"	146.31		"	3647	250.00
	"	"	1,170.37		"	3648	2,000.00
	"	"	1,170.37		"	3649	2,800.00
	"	"	2,340.74		"	3667	1,325.00
	"	"	585.18		"	3682	3,500.00
	"	"	585.18		"	3732	2,000.00
	"	"	585.18		"	3787	900.00
	"	"	585.18		"	4664	62,590.00
	"	"	585.18		"	"	200.00
	"	"	585.18		"	"	2,210.00
	"	"	146.31		Jason (hull)	14651	799.24
	"	"	1,170.37		"	"	20.00
	"	"	292.61		J. L. Luckenbach (hull)	9594	10,860.71
	"	"	585.18		"	"	75.00
	"	"	585.18		"	10277	35.12
	"	"	2,340.74		"	10370	1,076.92
	"	"	585.18		"	10460	105.37
	"	"	585.18		"	10599	3,520.38
	"	"	1,170.37		"	10748	25.22
	"	"	292.61		"	10881-10883	280.80
	"	"	1,170.37		"	10979-10983	678.37
	"	"	585.18		21 John D. Archbold (hull).	4287	2,200,000.00
	"	"	585.18		Kansan	5093	62,800.00
19	Grace (hull)	4711	449,973.10		"	5470	22,500.00
	"	4026	7,000.00		"	6140	2,474.00
	"	4027	8,000.00		"	6152	3,300.00
	"	4028	3,000.00		"	6347	27,190.00
	"	4029	26,745.19		"	6350	8,740.00
	"	4126	170,638.00		"	6351	8,740.00
	"	4616	700.00		"	6352	5,500.00
	"	4712	2,000.00		"	6354	5,500.00
	"	4935	1,000.00		"	6355	5,489.00
	"	4944	375.00		"	6356	2,740.00
	"	5047	38,473.37		"	6353	5,500.00
	"	5096	300.00		Kingfisher (hull)	21910	49,800.00
	"	4840	950.00		Lewis Luckenbach (hull)	7983	899,994.49
	Greenbrier (hull)	861	50,000.00		"	7775	2,000.00
	Hildegard (hull)	5737	28,000.00		"	9963	29,155.00
	Hilonian (hull)	2665	275,000.00		"	10067	110,000.00
	"	2708	20,000.00		"	10147	30,700.00
	"	2787	576.00		"	10194	47,800.00
	"	2937	7,844.00		"	10195	46,850.00
	"	2938	3,963.00		"	10196	47,300.00
	"	2939	4,073.00		"	10197	68,050.00
	"	2950	2,000.00		"	10271	4,500.00
	"	2991	13,732.00		"	10272	10,600.00
	"	3000	10,600.00		"	10284	15,000.00
	"	3001	500.00		"	12162	1,404.50
	"	3027	3,175.00		Lizzie E. Dennison	3675-3678	756.83
	"	"	160.00		22 Madrugada	19348	1,750.00
	"	"	425.00		Magnus Manson (hull)	2567	75,000.00
20	"	"	85.00		Missourian (hull)	2501	999,777.58
	"	"	1,895.00		Moreni (hull)	4682	775,000.00
	"	3067	750.00		"	4683	135,000.00
	"	3149	8,000.00		"	4684	578,700.00
	"	3191	9,500.00		Muriel (hull)	19279	11,950.00
	"	3157	3,300.00		New York (hull)	1833	910.34
	"	3185	14,413.53		"	2803 and 2492	520.17
	"	3210	6,083.00		"	2578	9.04
	"	3211	7,402.00		"	2702	126.50
	"	3212	3,087.00		"	"	76.58
	"	3301	14,000.00		Norlina (hull)	4781	6,300.45
	"	3731	7,500.00		"	"	100.00
	"	3328	850.00		Orleans (hull)	5640	475,000.00
	"	3380	5,800.00		"	5641	5,486.01
	"	3387	1,050.00		"	5680	51,000.00
	"	3390	475.00		"	5689	23,253.00
	"	3391	1,650.00		"	5854	5,700.00
	"	3494	570.00		"	5866	200.00
	"	3495	160.00		"	5871	12,000.00
	"	3496	355.00		"	5872	2,500.00
	"	3498	1,045.00		"	5907	1,700.00
	"				"	5908	2,200.00
	"				"	5909	10,000.00
	"				"	5946	1,600.00
	"				"	6049	7,574.00
	"				"	6050	8,500.00

Vessel	Policy No.	Amount of claim paid by U. S. A.	Vessel	Policy No.	Amount of claim paid by U. S. A.
23 Orleans	6067	\$32,150.00	Schuylkill (hull)	10916	\$18,281.00
"	6096	95,000.00	"	10917	5,837.00
"	6120	19,162.00	"	10920	1,721.00
"	6165	107,334.45	"	10943	64,000.00
"	6341	54,900.00	"	10948	140.00
"	6342	2,800.00	"	10950	87.87
"	6418	1,000.00	"	10951	300.00
"	6419	200.00	"	10953	1,010.63
Percy Birdsall (hull)	2403	25,000.00	"	10954	380.00
Petrolite (hull)	3833	475,000.00	Stanley M. Seaman	19323	1,875.00
Platuria (hull)	6086	565,000.00	(hull).	"	14,062.00
Progress (hull)	19548	5,993.00	"	"	2,812.00
Portland (hull)	1106	1,064.84	"	"	3,750.00
Robert & Richard	18252	11,950.00	"	"	1,875.00
(hull).			"	"	1,875.00
Rush (hull)	20068	30,938.00	"	"	937.00
Rochester	10130	250.00	"	"	1,875.00
"	"	250.00	"	"	2,812.50
"	"	160.30	"	"	1,875.00
"	"	226.50	"	"	1,875.00
"	"	100.00	"	"	1,875.00
"	"	100.00	"	"	1,875.00
"	"	66.15	"	"	3,750.00
"	"	500.00	"	"	1,875.00
"	"	250.00	"	"	1,875.00
"	"	100.00	"	"	3,750.00
"	"	100.00	"	"	1,875.00
"	"	100.00	"	"	1,875.00
Rockingham (hull)	2560	799,941.60	"	"	3,750.00
24 " "	27075	4,150.00	"	"	1,875.00
Schuylkill (hull)	9659	599,905.49	"	"	1,875.00
"	9847	49,948.36	"	"	1,875.00
"	10285	3,136.00	"	"	1,875.00
"	10291	3,000.00	"	"	1,875.00
"	10523	10,930.29	"	"	1,875.00
"	10524	2,342.48	"	"	2,812.50
"	10525	14,500.00	"	"	1,875.00
"	10526	14,500.00	"	"	1,875.00
"	10528	34,633.19	"	"	1,875.00
"	10529	7,426.49	"	"	937.50
"	10682	30,000.00	"	"	1,875.00
"	10700	300.00	"	"	937.50
"	10706	21,000.00	27	"	1,875.00
"	10720	1,350.00	"	"	1,875.00
"	10721	1,675.00	"	"	1,875.00
"	10799	23,750.00	"	"	1,875.00
"	10942	15,200.00	"	"	3,750.00
"	11160	194,678.00	"	"	937.50
"	10816	3,500.00	"	"	2,812.50
"	10891	10,900.00	"	"	1,875.00
"	10892	10,350.00	"	"	1,875.00
"	10893	6,500.00	"	"	1,875.00
"	10894	9,750.00	"	"	3,750.00
"	10895	8,300.00	"	"	937.50
"	10896	8,600.00	"	"	1,875.00
"	10897	8,250.00	"	"	1,875.00
"	10898	8,200.00	"	"	1,875.00
"	10899	28,000.00	"	"	937.50
25	10900	30,000.00	"	"	937.50
"	10901	52,000.00	"	"	1,875.00
"	10902	12,000.00	"	"	1,875.00
"	10903	12,000.00	"	"	1,875.00
"	10904	12,000.00	Suruga (hull)	13037	150,000.00
"	10905	12,000.00	"	"	214,503.18
"	10906	10,000.00	"	"	858.50
"	10907	13,729.00	"	"	9.10
"	10908	4,064.00	St. Louis (hull)	4075	12,879.24
"	10909	1,692.00	Wm. H. Clifford (hull)	6459	50,000.00
"	10910	5,142.00	Wm. H. Starbuck (hull)	20421	2,133.33
"	10911	5,315.00	"	"	1,066.67
"	10912	10,530.00	Wilmore (hull)	8961	1,375,000.00
"	10913	24,840.00			
"	10914	8,731.00			
"	10915	6,440.00	Total		17,424,229.22

EXHIBIT B

Vessel	Policy No.	Amount of claim paid by U. S. A.	Vessel	Policy No.	Amount of claim paid by U. S. A.
28 Alamance	13520	\$95,100.00	Argonaut	15777	\$112,821.94
"	13787-13793	216,267.69	"	15778	29,490.37
"	13814	8,080.31	"	15780	31,627.88
"	13814	15,050.02	"	15781	31,509.07
"	13815	9,184.18	"	15782	29,085.30
"	13830	16,500.00	"	15783	59,399.84
"	13879	4,997.19	31 "	15784	61,639.92
"	13986	117,800.00	"	15785	59,929.02
"	14249	29,563.34	"	15786	31,050.00
"	14250	701,251.00	"	15787	28,850.00
A. Piatt Andrew	20391	100.00	"	15820	14,870.00
"	"	100.00	"	15821	11,705.00
"	"	100.00	"	15822	58,230.00
"	"	100.00	"	15823	15,476.00
"	"	100.00	"	15841	69,861.00
"	"	100.00	"	15851	28,111.04
"	"	100.00	"	15852	27,279.35
"	"	100.00	"	15853	54,511.18
"	"	100.00	"	15854	54,487.41
"	"	100.00	"	15954	27,160.53
"	"	100.00	"	15955	27,493.22
"	"	100.00	"	15993	42,629.92
"	"	100.00	"	15994	14,114.92
"	"	100.00	"	15995	28,847.68
"	"	100.00	"	16012	14,162.00
"	"	100.00	"	16013	29,000.00
"	"	100.00	"	16014	29,400.00
"	"	100.00	"	16068	28,150.00
29 "	"	100.00	"	16295	26,143.50
"	"	100.00	"	16296	58,408.22
Argonaut	15124	20,989.00	"	16297	85,212.32
"	15125	21,416.00	"	16298	83,382.62
"	15126	21,678.00	"	16299	27,250.83
"	15127	43,684.00	32 Dirigo	3187	18,943.00
"	15286	111,002.00	"	3428	4,300.00
"	15287	175,198.00	D. N. Luckenbach	10766	41,147.97
"	15288	27,913.00	"	10800	7,036.48
"	15289	66,008.00	"	10876	12,229.11
"	15307	63,882.00	"	"	9,296.24
"	15308	4,503.00	"	"	1,063.69
"	15309	32,849.00	"	11002	92,030.00
"	15310	76,280.00	"	11040	12,500.00
"	15311	25,596.00	"	11103	1,297.02
"	15331	20,750.00	"	11240	23,780.53
"	15375	89,000.00	Grace	3979	8,500.00
"	15376	28,600.00	"	3997	7,500.00
"	15457	99,500.00	"	3998	1,400.00
"	15458	26,600.00	"	4018	10,000.00
"	15463	28,050.00	"	4034	18,000.00
"	15464	32,300.00	"	4042	3,800.00
"	15465	29,400.00	"	4128	9,500.00
"	15466	27,800.00	"	4129	9,500.00
"	15548	31,000.00	"	4130	7,277.00
"	15549	91,000.00	"	4131	3,030.00
"	15550	118,800.00	"	4190	3,000.00
"	15551	58,100.00	"	4191	7,500.00
"	15552	142,550.00	"	4251	2,800.00
30 "	15553	57,500.00	"	4265	2,000.00
"	15554	110,600.00	"	4266	40,000.00
"	15555	30,350.00	"	4320	35,000.00
"	15566	26,619.21	"	4321	9,340.00
"	15567	33,755.84	"	4321	2,300.00
"	15568	17,940.69	"	4402	5,000.00
"	15569	16,633.75	33 "	4403	5,000.00
"	15570	6,843.60	"	4404	8,000.00
"	15571	48,356.69	"	4439	2,750.00
"	15586	31,905.00	"	4507	22,000.00
"	15589	64,206.38	"	4508	3,000.00
"	15590	31,867.07	"	4583	6,000.00
"	15591	31,999.10	"	4671	1,000.00
"	15592	31,351.01	"	4693	22,000.00
"	15593	32,161.08	"	4724	4,500.00
"	15594	32,727.55	"	4818	410.00
"	15595	65,380.00	"	4819	1,650.00
"	15596	33,080.00	"	4820	1,150.00
"	15622	60,166.65	"	4856	3,850.00
"	15623	58,479.52	"	4891	35,000.00
"	15725	29,641.34	"	4892	32,000.00
"	15726	149,276.59	"	4933	4,833.19
"	15727	26,442.00	"	4936	4,050.00

Vessel	Policy No.	Amount of claim paid by U. S. A.	Vessel	Policy No.	Amount of claim paid by U. S. A.
Grace	4981	\$460. 00	Lewis Luckenbach	9772	\$1, 924. 98
"	5259	20, 000. 00	"	"	4, 392. 38
Harwood Palmer	3120	15, 150. 00	"	"	1, 464. 86
"	3120	51, 350. 00	"	"	1, 918. 40
Hillonian	2802	1, 952. 00	"	9773	4, 868. 00
"	2984	3, 000. 00	"	9827	18, 000. 00
"	2990	12, 334. 00	"	10040	2, 985. 00
"	2992	35, 425. 00	"	10041	2, 985. 00
"	2996	6, 600. 00	"	10042	7, 255. 85
"	3027	660. 00	"	10043	15, 343. 44
"	"	230. 00	"	10044	31, 141. 00
"	"	1, 580. 00	"	10045	11, 103. 00
34 "	"	1, 310. 00	"	10046	18, 568. 00
"	"	4, 190. 59	"	10056	6, 600. 00
"	"	865. 00	"	10070	31, 800. 00
"	3089	1, 500. 00	"	10071	5, 750. 00
"	3090	1, 000. 00	37 "	10072	14, 200. 00
"	3091	900. 00	"	10073	60. 00
"	3092	1, 100. 00	"	10074	28, 000. 00
"	3093	1, 800. 00	"	10075	13, 000. 00
"	3094	1, 400. 00	"	10076	650. 00
"	3181	3, 110. 00	"	10146	2, 700. 00
"	3182	5, 365. 00	"	10152-3	110, 903. 30
"	3183	8, 240. 00	"	10155	
"	3195	35, 000. 00	"	10185-6	
"	3310	800. 00	"	10154	61, 980. 00
"	3330	1, 100. 00	"	10187	10, 708. 00
"	3381	285. 00	"	10188	31, 105. 00
"	3382	1, 100. 00	"	10211	15, 000. 00
"	3383	1, 450. 00	"	10270	7, 200. 00
"	3384	1, 250. 00	"	10400	300. 00
"	3385	925. 00	"	16568	67, 232. 61
"	3386	660. 00	Lizzie E. Dennison	3675-8	60, 461. 42
"	3388	1, 825. 00	Madrugada	19348	71, 527. 05
"	3389	140. 00	Magnus Manson	2461	93, 960. 00
"	3417	24, 719. 52	Navajo	4985-6	922. 67
"	3497	280. 00	New York	2460	662. 56
"	3645	2, 800. 00	"	2460	16, 992. 24
"	3679	600. 00	"	2483	359. 23
"	3680	80. 00	"	2702	143. 33
"	3681	25. 00	Orleans	5519	3, 750. 00
35 J. L. Luckenbach	10266	109. 95	"	5719	4, 700. 00
"	10267	161. 48	"	5720	1, 575. 00
"	10301	1, 880. 41	"	5721	40, 200. 00
"	10333	27. 45	"	5761	18, 300. 00
"	10346	592. 87	"	5823	3, 460. 00
"	10365	182. 60	38 "	5852	11, 600. 00
"	10377	25. 25	"	5855	2, 200. 00
"	10437	453. 78	"	5856	400. 00
"	10463	14. 82	"	5861	1, 300. 00
"	10481	145. 57	"	5862	1, 200. 00
"	10490	63. 12	"	5863	400. 00
"	10494-10495	42. 64	"	5864	1, 500. 00
"	10496	92. 56	"	5865	5, 200. 00
"	10614	51. 60	"	5867	2, 000. 00
"	10618-10619	143. 71	"	5868	1, 200. 00
"	10990	1, 217. 86	"	5869	400. 00
"	10751	104. 41	"	5870	600. 00
"	10753	78. 69	"	5943	55, 550. 00
Kansan	5130	279, 154. 17	"	6808	35, 000. 00
"	5483	1, 200. 00	"	6810	78, 910. 00
"	5484	12, 150. 00	Rochester	10130	100. 00
"	5485	12, 700. 00	"	"	100. 00
"	5523	1, 300. 00	"	"	100. 00
"	5524	4, 750. 00	"	"	100. 00
"	5525	7, 000. 00	"	"	100. 00
"	6153	2, 700. 00	"	"	100. 00
"	6168	6, 250. 00	"	"	100. 00
"	6301	5, 600. 00	"	"	100. 00
"	6302	650. 00	"	"	100. 00
"	6346	162, 030. 00	"	"	100. 00
36 "	6348	27, 720. 00	"	"	100. 00
"	6349	13, 272. 00	"	"	50. 00
Lewis Luckenbach	7773	189, 000. 00	"	"	100. 00
"	7774	8, 000. 00	"	"	100. 00
"	8943	73, 500. 00	39 "	"	100. 00
"	9324	5, 093. 18	"	"	100. 00
"	9325	67, 984. 06	"	"	100. 00
"	9655	2, 200. 00	"	"	100. 00
"	9665	14, 407. 59	"	"	100. 00
"	9666	8, 052. 60	"	"	100. 00
"	9667	3, 544. 78	Rockingham	2508	15, 150. 00
"	9688	103, 000. 00	"	2525	6, 500. 00

Vessel	Policy No.	Amount of claim paid by U. S. A.	Vessel	Policy No.	Amount of claim paid by U. S. A.
Rockingham	2481	\$24,691.84	Schuylkill	10510	\$4,974.91
"	2481	819.91	"	10511	1,991.00
"	2481	1,074.20	"	10512	6,900.00
"	2481	22,440.32	"	10513	5,600.00
"	2485	4,200.00	"	10514	1,424.11
"	2582	2,200.00	"	10515	5,800.00
"	2615	16,000.00	"	10527	4,383.44
"	2615	11,000.00	"	10552	550.00
"	2850	4,000.00	"	10601	6,000.00
"	3188	7,363.13	"	10602	2,300.00
"	3189	598.69	"	10594	2,260.00
"	3208	350,000.00	"	"	4,000.00
Schuylkill	9260	3,000.00	"	"	8,076.92
"	9559	1,800.00	"	"	2,000.00
"	9735	15,200.00	"	"	1,740.00
"	9944	6,258.56	42	"	1,169.06
"	9945	5,320.00	"	"	6,600.00
"	9957	5,325.07	"	"	7,830.94
"	10068	6,897.00	"	"	142.03
40	10069	1,200.00	"	10645	14,000.00
"	"	1,271.97	"	10646	17,200.00
"	"	1,200.00	"	10648	3,000.00
"	"	4,200.00	"	10649	12,400.00
"	"	6,825.00	"	10651	3,000.00
"	"	2,275.00	"	10671	5,900.00
"	"	1,128.03	"	"	2,100.00
"	"	1,200.00	"	"	700.00
"	"	1,200.00	"	"	5,600.00
"	"	3,764.43	"	10683	1,000.00
"	"	4,200.00	"	10686	4,500.00
"	"	3,300.00	"	10696	5,800.00
"	"	1,000.00	"	10697	1,900.00
"	10127	2,000.00	"	10698	1,800.00
"	10230	11,800.00	"	10699	584.61
"	10290	1,341.05	"	10701	3,000.00
"	10296	25,700.00	"	10702	8,000.00
"	10297	14,000.00	"	10714	816.00
"	10304	23,665.25	"	"	6,300.00
"	10334	6,000.00	"	"	4,057.97
"	10335	9,000.00	"	10718	4,300.00
"	10360	7,550.00	"	10724	26,500.00
"	10341	3,000.00	"	10725	4,950.00
"	10369	19,207.50	"	10765	396.03
"	10371	6,000.00	"	10791	5,289.27
"	10388	9,800.00	43	10792	35,500.00
"	10394-5	4,917.80	"	11242	2,000.00
"	10402-3	19,900.00	"	10811	19,467.54
"	10405	600.00	"	10822	8,500.00
41	10435	11,939.55	"	10929	78,639.57
"	10436	4,300.00	"	10933	13,100.00
"	10448	24,000.00	"	10941	19,000.00
"	10473	4,000.00	"	10949	937.27
"	10474	4,500.00	"	10952	600.00
"	10475	21,912.00	"	10964	24,649.13
"	10476	4,019.00	"	10965	4,950.27
"	10477	6,645.00	"	11019	2,596.35
"	10478	2,235.00	"	11261	20,000.00
"	10479	1,325.00	"	11284	32,285.00
"	10480	1,461.00	Stanley M. Seaman		
"	10504	600.00	(hull)	19323	1,875.00
"	10507	16,260.00			
"	10508	5,049.00	Total		9,269,215.65
"	10509	5,013.25			

EXHIBIT "C"

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Vessel	Policy No.	Amount of claim paid by U. S. A.	Vessel	Policy No.	Amount of claim paid by U. S. A.
Wm. P. Frye (hull)	34	\$10,000.00	Healdton (hull)	1902	\$48,888.82
"	98	1,550.00	Edwin R. Hunt (hull)	2364	49,776.67
Evelyn (hull)	636	100,000.00	New York (hull)	1833	164,051.49
"	637	241,961.57	Vacuum (hull)	2326	999,976.60
Carib (hull)	576	22,235.56			
Illinois (hull)	2270	250,000.00			2,338,440.71
Healdton (hull)	1878	450,000.00			

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EXHIBIT D

Vessel	Policy No. S. I	Name of insured	Amount of claim paid by U. S. A.
Almance	624	Carrasco, Pio M.	\$1,500.00
"	"	Fralic, Laurie	1,500.00
"	"	Fujiwara, Shintaro	1,500.00
"	"	Ito, L. (Lyujiro or Ryujiro)	1,500.00
"	"	Utsunomiya, Magoichiro	1,500.00
Atlantic Sun	724	Daniels, Charles T., jr	1,500.00
"	"	Glass, Harry H. (injury)	1,500.00
"	"	Hertoge, Henri Clement	2,520.00
"	"	Johnson, David (detention)	2,083.34
Campana	163	Oliver, Albert (detention)	4,050.00
Chincha	811	Falt, Karl Victor	1,500.00
"	"	Ogami, Kurakichi	1,500.00
"	"	Yamamoto, B.	1,500.00
D. N. Luckenbach	286	Chronis, Demosthenes (Demivis)	1,200.00
"	"	Evangelacos, Denis	1,500.00
"	"	Olsen, Trygve Fredrik	2,520.00
"	"	Pennea, Albert A.	2,280.00
"	"	Villianos, Peter (Panagatos, Villianos D.)	1,500.00
Florence H.	906	Amiot, Manuel Alvarez y	1,500.00
"	"	Beans, John	2,520.00
"	"	Bentley, Edmund	1,500.00
"	"	Butterfield, Fred. J.	4,500.00
"	"	Collins, Martin L.	1,500.00
"	"	Cudahy, Howard L.	2,160.00
46 "	"	Geldart, Leonard Brown	1,500.00
"	"	Goodwin, Carl L.	1,500.00
"	"	Kato, S.	1,500.00
"	"	Lamoreaux, Joseph L., jr.	1,500.00
"	"	Matsumoto, T.	1,500.00
"	"	Miyake, Tersuichiro	1,800.00
"	"	Mori, (Moni) Chukichi	1,500.00
"	"	Novoa, Oscar S. (A)	1,500.00
"	"	Pausche, John (Jahn Arnold)	1,500.00
"	"	Overington, Russell	2,340.00
"	"	Randle, Arthur W.	1,500.00
"	"	Rondoni, Basilio	1,500.00
"	"	Santos, C. F. (Canuto Ferreira don)	1,500.00
"	"	Scardace, Carlo	1,500.00
"	"	Simpson, Charles	1,500.00
"	"	Tamura, Noboru	1,500.00
"	"	Umetsu, S.	1,500.00
"	"	Wasnak, Joseph Andrew	1,500.00
"	"	West, Percy D. (injury)	750.00
"	"	Yamagata, H.	1,500.00
"	"	Yamaguchi, Suyetaro	1,500.00
"	"	Toshisawa, Eimatsu	1,500.00
Freida	1403	Ciechowski, John Joseph	1,500.00
Frederic R. Kellogg	1754	Carlsen, John	1,500.00
"	"	Hamilton, Albert Myron (Johnson, Samuel L.)	2,100.00
"	"	Kramer, James	1,875.00
47 "	"	Jorgensen, Axel Albert	1,500.00
"	"	Souza, (Souza or Souga) Francisco de	1,500.00
J. L. Luckenbach	250	Saunders, Drew B. (injury)	2,250.00
Kansan	8	Aguirre, Florentino	1,500.00
"	"	Hanan, Charlie	1,500.00
"	"	Kua, Aleander P.	1,500.00
"	"	Murphy, Jeremiah M.	2,700.00
Barge "Lansford"	4819	Ainsleigh, Charles (injury)	958.00
Lewis Luckenbach	223	Anderssan (Anderson) Lennart	1,500.00
"	"	Erickson, John	1,950.33
"	"	Hassell, George Benjamin	1,500.00
"	"	McCants, L. S.	2,310.00
"	"	Nissenson, Irving J.	1,500.00
"	"	Peterson, Wallace	1,500.00
"	"	Watkins, J. B.	4,500.00
Motano	51	Gilow, Edward	1,500.00
"	"	Gleason, Lannie	1,500.00
"	"	Gregory, Harry	1,500.00
"	"	Harwood, W.	1,500.00
"	"	Haugaard, Julius C.	1,980.00
"	"	Larsen, Karl	1,500.00
"	"	Lohse, Renaldo R.	2,250.00
"	"	Lundquist, Karl David	1,500.00
"	"	Madsen, Marius Michael	1,500.00
"	"	Nordgren, John Isidor	1,500.00
"	"	Roslund, Walter	1,500.00
"	"	Thorne, Vernon S.	1,500.00
48 "	"	Tuber, Robert	1,500.00
"	"	Williams, Rubin	1,500.00
"	"	Williams, Russell A.	1,500.00
"	"	Winter, Joseph	1,500.00

Vessel	Policy No. S. I.	Name of insured	Amount of claim paid by U. S. A.
O. B. Jennings	1925	Bastin, Rene (detention)	\$908. 14
"	"	Scott, James Henry	1, 500. 00
Owasco	503	Garcia, Jesus	1, 500. 00
"	"	Jacobson, Albert	1, 500. 00
"	"	Watts, Nathan R. (injury)	972. 00
Platuria	310	Escrache, Alberto Jarque (Gargie, Alberto)	1, 500. 00
"	"	Halpern, L.	1, 500. 00
"	"	Hellstrom, Gustav F. (injury)	1, 500. 00
"	"	Jones, James	1, 620. 00
"	"	Leslie, John	4, 050. 00
"	"	Whittier, Harold W.	1, 500. 00
Rochester	567	Ampuero, Antonio Avendano	1, 500. 00
"	"	Bulgarea, George	750. 00
"	"	Diaz, Augustin Mariguez	1, 500. 00
"	"	Einset, Christian	2, 520. 00
"	"	Gonzalez, Juan	1, 500. 00
"	"	Helm, Verner L.	1, 500. 00
"	"	Hellstrom, Nils Ragnar Casian (B)	1, 500. 00
"	"	Hinman, William B.	1, 500. 00
"	"	Kokeritz, Erik	5, 000. 00
"	"	Madsen, Thor	1, 500. 00
"	"	Margeli, Benjamin	1, 500. 00
49 "	"	Ohman, Ernest	1, 500. 00
"	"	Petersen, Axel	1, 500. 00
"	"	Wheeler, Rex S.	1, 500. 00
San Saba	2783	Annoni, Natali	1, 500. 00
"	"	Birdsall, Bergen G.	3, 600. 00
"	"	Chambers, Esau Emanuel	1, 500. 00
"	"	Cobb, Harry	2, 175. 00
"	"	Cyntje, Juancito Assencion (Cynty, Juaneto)	1, 500. 00
"	"	Domingo, Legideus Maria (Rosal, Theodore)	1, 500. 00
"	"	Downie, John L.	1, 500. 00
"	"	Henrique, Theofiel Confesor (Henriquez, Philip)	1, 500. 00
"	"	Henriquez, Pol (Pel)	1, 500. 00
"	"	Lange, Pablo De	1, 500. 00
"	"	Lapiento, Don Domingo	1, 500. 00
"	"	Lazcano, Rosamel	1, 500. 00
"	"	Longueiro, Manuel	1, 500. 00
"	"	Lorenzo, Angel	1, 500. 00
"	"	McBride, William J.	2, 550. 00
"	"	Maceiva, Jose M.	1, 500. 00
"	"	Miller, Frank	1, 950. 00
"	"	Mothersill (Manning) Stephen	1, 500. 00
"	"	Mosquera, Manuel	1, 500. 00
"	"	Peterson, Pablo	1, 500. 00
"	"	Quintans, Manuel Nolla (Noya)	1, 500. 00
"	"	Ray Arthur	1, 500. 00
50 "	"	Richards, Ralph	1, 725. 00
"	"	Robinson, Joseph	1, 500. 00
"	"	Terkelsen, Harry (Bjorn)	1, 500. 00
"	"	Villanueva, Julio Sesar	1, 500. 00
"	"	Werners, George	1, 500. 00
"	"	West, Fred	1, 500. 00
St. Helens	603	Bodin, Viktor Leonard	1, 500. 00
"	"	Carroll, Bridges	1, 500. 00
"	"	Dahlberg, Peter	1, 500. 00
"	"	Danielson, Theodor	1, 500. 00
"	"	Ferreira, Antonio	1, 500. 00
"	"	Freris, Joseph (Freyer James)	1, 500. 00
"	"	Golden, Frank	1, 500. 00
"	"	Gudmundsen, Gudmund	1, 500. 00
"	"	Head, Richard James	1, 500. 00
"	"	Jakobsson, J. A.	1, 500. 00
"	"	Jennings, John Wilberforce	1, 500. 00
"	"	Johnson, Bernt	1, 500. 00
"	"	Johnson, B. F.	1, 500. 00
"	"	Johnson, Hugh Marcus	1, 500. 00
"	"	Lopes, Jose (Joaa) Miguel	1, 500. 00
"	"	Maguregui, Victoriano	1, 500. 00
"	"	Mayoral, Pedro Alvaro Lopez	1, 500. 00
"	"	Movilla, Jose M.	1, 500. 00
"	"	Nutt, Joseph	1, 500. 00
"	"	Ochando, Ramon N.	1, 500. 00
"	"	Rocosa, Ramon Rocosa y	1, 500. 00
51 Tyler	1088	Saunders, William Henry	1, 971. 00
"	"	Carro, Gregorio	1, 500. 00
"	"	Kawamoto, Fukumatsu	1, 500. 00
"	"	Knowlton, Clarence	1, 500. 00
"	"	Mears, E. W.	2, 280. 00
"	"	Morera, Jose Rodriguez	1, 500. 00
"	"	Posse, Fernando	1, 500. 00
Total			272, 667. 81

52

Motion to strike out suggestion

Filed April 19, 1924

* * * * *

Now comes August Heckscher, complainant herein, by and through his attorneys, and moves the court to strike out the suggestion of the United States of America, filed herein by its Attorney General, upon the following grounds:

1. Because the said suggestion alleges no facts which, if true, constitute a defense to the cause of action alleged in the bill of complaint;

2. Because the said suggestion alleges no facts which, if true, constitute a cause of action against the complainant, nor a set-off or counterclaim to complainant's bill of complaint, either in law or in equity, or under the act of Congress known as the "trading with the enemy act," as amended;

3. Because the said suggestion puts in issue the debit and credit relations between the Imperial German Government and the United States of America, which said relations are not in any way involved in this suit, to which neither the Imperial German Government nor the United States of America are proper parties;

4. Because the said suggestion amounts to an intervening petition which does not conform to the provisions of Federal Equity Rule No. 37, in that the said petition is not in subordination to the main litigation, but seeks to assume control thereof, asking that the complainant's bill of complaint be dismissed, and, substantially, that the United States of America be substituted as complainant in the cause.

53 5. Because the claim of the United States of America, as set forth in said suggestion, is the same as the claim made in its behalf by counsel for the defendants in the affirmative defenses filed in the case of the Mechanics Securities Corporation against the same defendants, pending in this court as Equity Cause No. 41284, said claim having been rejected by the court and said affirmative defenses stricken out.

6. Because the United States of America is not authorized by law to file a notice of claim under section 9 of the "trading with the enemy act," as amended, for loss or injury alleged to have been sustained by reason of the wrongful or tortious acts of the Imperial German Government.

7. Because the alleged claim of the United States of America is not a debt within the meaning of section 9 of the "trading with the enemy act," as amended.

8. Because this court has no jurisdiction to pass upon or determine the rights of the United States of America, if it has any, to become subrogated as against the Imperial German Government for any sums of money disbursed by it under policies of insurance for the loss of vessels, cargoes, or lives.

9. Because any alleged indebtedness of the United States of America, or of other creditors of the Imperial German Government not now before this court, is not entitled to be set up as a defense to the complainant's claim in this suit.

10. Because the payment of the debt due and owing to the complainant, if established, is required by the "trading with the enemy act," as amended, and will not constitute, as alleged in said suggestion, any undue preference as between creditors of the Imperial German Government, or its successor or successors.

11. Because it appears on the face of the suggestion that, by treaty, the Imperial German Government and its successors have agreed with the United States of America to make payments and restitutions, including therein the claim of the United States as set up in said suggestion, and therefore this court has no jurisdiction of the claims of the United States against the Imperial German Government, said claims being a matter for diplomatic intercourse between the respective sovereigns.

AUGUST HECKSCHER,
By CARLIN, CARLIN & HALL,
Attorneys.

CARLIN, CARLIN & HALL,
1127 Munsey Building, Washington, D. C.,
Attorneys for Complainant.

To PEYTON GORDON, Esq.,
Attorney for the defendants and for the United States of America.

Take notice that the within motion will be for hearing on Friday, April 25th, at 10 a. m., or as soon thereafter as counsel may be heard.

CARLIN, CARLIN & HALL,
By M. C. H.,
Attorneys for Complainant.

55 *Order*

Filed April 30, 1924

* * * * *

This cause coming on to be heard on the plaintiff's motion to strike out the suggestion of the United States of America, filed herein by the Attorney General of the United States on the 11th day of April, 1924, and the court, having considered the said suggestion and the facts therein brought to its attention, carefully and with the deliberation to which such a suggestion is entitled, and being of the opinion that the facts therein alleged are immaterial and irrelevant to this cause, and that the said suggestion is insufficient in law to maintain a claim on behalf of the United States, it is hereby ordered, this the 30th day of April 1924, that said motion to strike out be, and the same is hereby, granted.

WENDELL P. STAFFORD,
Justice.

From the foregoing order, the United States of America notes an appeal, in open court, to the Court of Appeals of the District of Columbia.

WENDELL P. STAFFORD,
Justice.

Assignment of errors

Filed May 7, 1924

* * * * *

Now comes the United States of America by Harlan F. Stone, Attorney General of the United States of America, and files the
56 following assignment of errors upon which it will rely upon its appeal from the order and decree made by this honorable court on the — day of April, 1924, in the above-entitled cause:

First. That the court erred in ordering that the motion to strike out the suggestion of the United States of America filed in the said cause by the Attorney General of the United States of America on the 11th day of April, 1924, be granted.

Second. That the court erred in not overruling the motion to strike out the suggestion of the United States of America filed in the said cause by the Attorney General of the United States of America on the 11th day of April, 1924.

Third. That the court erred in not granting the prayers contained in the said suggestion of the United States of America filed by the Attorney General of the United States of America on the 11th day of April, 1924.

Fourth. That the court erred in not adjudging, ordering, and decreeing that the United States of America is a "person" within the meaning of that word as used in section 9 of the trading with the enemy act, as amended.

Fifth. That the court erred in not adjudging, ordering, and decreeing that the claim of the United States set forth in the suggestion of the United States of America filed as aforesaid is a proper
claim within the meaning of section 9 of the trading with the enemy act as amended.

Sixth. That the court erred in not adjudging, ordering, and decreeing that the United States of America is entitled to have paid out of any money or other property held by the Alien Property Custodian or the Treasurer of the United States, which money or
57 other property was at the time of the receipt thereof by the Alien Property Custodian or the Treasurer of the United States, the money or other property of the Imperial German Government, the amount of its debt against the Imperial German Government, as set forth in the said suggestion.

Seventh. That the court erred in not adjudging, ordering, and decreeing that any claim of the United States against the Imperial German Government is entitled to priority of payment out of any money or other property held by the Alien Property Custodian, and/or the Treasurer of the United States, which at the date of the receipt thereof by the said Custodian, and/or the Treasurer of the United States, was the money or other property of the Imperial German Government.

All of which is respectfully submitted.

UNITED STATES OF AMERICA,
By HARLAN F. STONE,
Attorney General of the United States of America.

Service of copy of the above acknowledged this 7 day of May, 1924.

M. CARTER HALL,
Attorney for Plaintiff.

Designation of record

Filed May 7, 1924

* * * * *

The clerk will please prepare a transcript of the record on appeal in the above entitled case, and include therein the following:

Bill of complaint.

Suggestion filed by the United States of America by the Attorney General of the United States of America on the 11th day of April, 1924.

58 Motion to strike out the suggestion of the United States of America filed by the Attorney General of the United States of America.

Order granting motion to strike out the suggestion of the United States of America filed by the Attorney General of the United States of America, with the notation of appeal thereon.

Assignment of errors.

This designation of record.

UNITED STATES OF AMERICA,
By HARLAN F. STONE,

Attorney General of the United States of America.

Service of a copy of the above acknowledged this 7 day of May, 1924.

M. CARTER HALL,
Attorney for Plaintiff.

59 *Supreme Court of the District of Columbia*

UNITED STATES OF AMERICA,
District of Columbia, ss:

I, MORGAN H. BEACH, clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 58, both inclusive, to be a true and correct transcript of the record according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 42335 in equity, wherein August Heckscher is complainant and Frank White, Treasurer of the United States, and Thomas W. Miller, Alien Property Custodian, are defendants, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 23rd day of September, 1924.

[SEAL.]

MORGAN H. BEACH,
Clerk.

By ELIZABETH WILSON,
Assistant Clerk.

EW

(Indorsement on cover:) District of Columbia Supreme Court No. 4228. United States of America, appellant, vs. August Heckscher. Court of Appeals District of Columbia. Filed Sept. 24, 1924. Henry W. Hodges, clerk.

